

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:05CV228-03-MU

MICHAEL HAMILTON THREADGILL,)
)
 Petitioner,)
)
 v.)
)
 STATE OF NORTH CAROLINA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER comes before the Court upon Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, (Document No. 1) and Petitioner's Application to Proceed In Forma Pauperis (Document No. 2), both filed June 2, 2005.

A Petition for a Writ of Habeas Corpus requires a filing fee of \$5.00. After reviewing the application to proceed in forma pauperis, the Court notes that there is no supporting affidavit. The application to proceed in forma pauperis contains a notice to prisoner at the bottom of the page which states:

“A Prisoner seeing to proceed without prepayment of fees shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.”

The Court is unable to rule on Petitioner request to proceed in forma pauperis without the required supporting affidavit. Accordingly, Petitioner is directed to submit an affidavit, including a certified trust account statement, in support of his motion within twenty (20) days from the filing of this

Order.

After careful review of the Petition and case file, the undersigned finds that the Attorney General should file an Answer detailing and responding to Petitioner's allegations. Based upon the Petition, the Court is unable to determine whether the Petitioner has exhausted his state court remedies or whether this Petition has been timely filed. Therefore, in addition to addressing the Petitioner's three claims, the Court directs the Attorney General to include a discussion of timeliness and exhaustion in the Answer.

THEREFORE, IT IS HEREBY ORDERED that:

1. Petitioner shall file an affidavit and supporting documents no later than twenty (20) days from the filing of this Order so that the Court can properly rule on his Application to Proceed In Forma Pauperis and

2. No later than forty (40) days from the filing of this Order, the Attorney General shall file an Answer to Petitioner's Petition for Writ of Habeas Corpus, detailing and responding to Petitioner's allegation and addressing whether Petitioner exhausted his state court remedies and whether his June 2, 2005 Petition has been timely filed.

Signed: June 13, 2005

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
Chief United States District Judge

